**HON'BLE SRI JUSTICE BILAL NAZKI**
**AND**
**HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION No.25304 of 2006**

Date: 05-03-2007.

Between :

M/s.Rohit Extractions Pvt. Ltd., Hyderabad,
rep. by its Director.

.....Petitioner

And

The Commercial Tax Officer, Nampally, Hyderabad &
another.

.....Respondents.

**HON'BLE SRI JUSTICE BILAL NAZKI**
**AND**
**HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION No.25304 of 2006**

**ORDER** : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

Assessment was made on 27.09.2000. A notice of revision was given by the revisional authority on 13.03.2002. The petitioner filed objections on 01.04.2002 and order in revision was passed by the authority on 29.06.2002. The petitioner did not choose to file appeal, as according to him, it appeared that the law was against him. In the meantime, the Government issued a Memo being Memo No.75475/CT.II (3) 2002, dated 17.12.2002. By this Memo, the Government ordered that even without production of 'C' Form, for the period from 16.08.1995 to 31.12.1999, tax had to be collected at the rate of 2% on the sales of vegetable oils including rice bran oil. The case of the petitioner is that because of the Government Memo, he would be benefited and he would have to pay

tax at the rate of 2% even without production of 'C' Form. The order relates back to the period from 16.08.1995 to 31.12.1999, therefore, the benefits for this period could not be denied to the petitioner, but the order came to be passed on 17.12.2002, by which time, the appeal had become time-barred and appeal could have not been filed. Therefore, he filed an application under Rule 50 of the A.P.General Sales Tax Rules, 1957 (for short 'the Rules') before the appropriate authority, seeking review of the order.

We do not think that Rule 50 of the Rules would apply for the present case, as it gives power to the authorities to review their order as far as clerical or arithmetical mistakes, but it was a fit case in which appeal could have been filed seeking condonation of delay in view of the peculiar circumstances. But the learned counsel for petitioner submits that there is a restriction even on the Tribunal to extend the time for filing appeal beyond a certain period. These are the circumstances, where we find that the petitioner could get the benefit for the period from 16.08.1995 to 31.12.1999, but this benefit was not availed by him because the Government Memo was issued much after the appeal period had expired.

Keeping in view the peculiar circumstances of this case, we dispose of the writ petition and permit the petitioner to file an appeal within fifteen days from today,

before the Sales Tax Appellate Tribunal. The Tribunal may consider the appeal on merits and pass appropriate orders and objections with regard to the delay in filing of appeal shall not be entertained by the Tribunal.

BILAL NAZKI, J

5th March 2007.

NOOTY RAMAMOHANA

RAO, J
ajr